

UNITED States District Court  
Western District of New York

DESEAN Hill

Plaintiff,

Complaint

under The

- Against -

Civil Rights Act 42 U.S.C. § 1983

Sgt. D. Hessel, in both his individual and  
official Capacity. C.O. Bortel, in both his  
individual and official Capacity. C.O. Hammer,  
in his individual Capacity, C.O. Schmedt,  
in his individual Capacity. C.O. John Doe #1  
C.O. John Doe #2. C.O. John Doe #3,

Jury trial: ☒ Yes ☐ No



Defendant(s)

I. Parties in this Complaint:

A.

Plaintiff

Name: DeSean Hill

ID#: 14A0857

Current Institution: Collins Corr Fac

Address: P.O. Box 340, Collins N.Y. 14034

B.

Defendant No. 1 NAME: Sgt. D. Hessel

Where Currently Employed: Collins Corr. Fac.

Address: P.O. Box 340, Collins, N.Y. 14034-0340

Defendant No. 2 NAME: C.O. Bortel

Where Currently Employed: Collins Corr. Fac.

Address: P.O. Box 340, Collins, N.Y. 14034-0340

Defendant No. 3 NAME: C.O. Hammer

Where Currently Employed: Collins Corr. Fac.

Address: P.O. Box 340, Collins, N.Y. 14034-0340

Defendant No. 4 Name: C.O. Schmedt

Where Currently Employed: Collins Corr. Fac.

Address: P.O. Box 340, Collins, N.Y. 14034-0340

Defendant No. 5 Name: C.O. John Doe #1

Where Currently Employed: Collins Corr. Fac.

Address: P.O. Box 340, Collins, N.Y. 14034-0340

Defendant No. 6 Name: C.O. John Doe #2

Where Currently Employed: Collins Corr. fac

Address: P.O. Box 340, Collins NY 14034

Defendant No. 7 Name: John Doe #3

Where Currently Employed: Collins Corr fac

Address: P.O. Box 340, Collins, N.Y. 14034-0340

## II. Statement of Claim:

A. In what institution did the events Giving Rise to Your Claim occur? Collins Corr. fac.

B. Where in the institution did the events Giving rise to Your claim occur? SHU OS-A2-28 Cell, Gallery

C. What date and approximate time did the events Giving rise to Your claim(s) occur? May 6, 2021  
on or Around 9:06 pm until 9:45 pm.

D. Facts: The Plaintiff Desean Hill is and was at all times relevant hereto, A Prisoner in the Custody of the New York State Department of Corrections and Community Supervision (DOCCS). At The time of the events relevant hereto, The Plaintiff was incarcerated at Collins Corr. Fac. ~~On~~ May 3<sup>rd</sup>, 2021. The Plaintiff Arrived To Collins Corr. Fac. Prior and Since His Arrival He's Participated and Received His Ramadan Meals due To fasting and Practicing under The Muslim Religion. Registered In (DOCCS) Computer Since 2016. On May 6, 2021. Plaintiff, Received A Hot/Cold Meal and Sahur Bag Around 9pm. with Now Being in Collins for (72hrs) without Any Property or Provided A Coran or A change of cloths. The Plaintiff Arrived with five other Prisoner's who all were escorted Per (DOCCS) SHU Standard and Procedure, To Receive Your Property within (72hrs) upon Arrival. ABLE To Review and Receive items Your allowed to Have from all legal Matireal, Photo's Personal letters etc.. with the Plaintiff Being the "only" inmate Not able to Be escorted or issued His selected Property. He Requested To Speak to The area Supervisor in regard of Receiving A Coran and His Property or change of ~~under~~ cloths. upon His request from Defendant Hammer Sgt. D. Hessel, Arrived with a number of officer's. This Sgt. Who was fully aware The Plaintiff was fasting, Being A Muslim and Requested A Coran. Due To A sign on The Plaintiff Cell Gate with A Photo of Him, which States "Ramadan." He Ordered The Plaintiff To Place



His Hands Through the Hatch door in which  
 The Plaintiff Complied to Be Place in Mechanical  
 Restraints and full Body waist-chain. Once the Plaintiff  
 Exited The Cell, Sgt. D. Hessel went into a violent  
 Rage. He entered The Plaintiff cell and He immediately  
 Threw The Sleeping Mattress, The Plaintiff Hot/Cold  
 Ramadan food, Sahur Bag, Kufi and collected legal supplies  
 out The cell onto the Gallery floor. with The Plaintiff  
 In shock He, Made every verbal Attempt to ask  
 why was This Taken Place. Sgt. D. Hessel, stated "If  
 I don't shut up and face The wall, I'll wish I did."  
 The Plaintiff Made Another Attempt, This time to inform  
 The Sgt. D. Hessel, He's now violating His religious items, food  
 and belief. In full Body Restraints, The Sgt. D. Hessel Then  
 Ordered The above mention defendant(s) to "drop Him  
 and Toss Him." at This Time, The Plaintiff was  
 Slammed into the wall by C.O. <sup>Hammer</sup> ~~Hammer~~ and John Doe #1,  
 Caucasian Male, 5'10, 210 Pounds. Then Placed in A deadly  
 choke Hole by C.O. Bortel, while the remaining defendant(s)  
 Punched, and Threatend to Kill me. with Recognizing This  
 reckless, unprofessional Behavior from these defendant(s)  
 The Plaintiff, In fear for His life, Being on the  
 Second floor with A Open fall, He Held on to the  
 Gate to refrain from Being Tossed Over the Second  
 floor rail. During This Time, Sgt. D. Hessel, Removed His  
 (Dogs Assigned issued Walkie-Talkie) from His waist  
 Belt and viciously Banged My Hand repeatedly until  
 He drew Blood, leaving Gashes on Three of The Plaintiff  
 fingers. AT [NO] Time during This Assault with The

Plaintiff in Mechanical Restraints and full Body Waist Chain. did the Plaintiff resist, Kick, Spit or Attempt to Make Matters Worst. The defendant(s) Then Carried The Plaintiff 50-60 feet by waist chain in the Air, To An unknown Area/Cell which Had No Mattress, Toilet, Sink or shoes on His feet The following Day On 5-7-21. The Next Area Supervisor Sgt. Morsen, who's Not A defendant in this Complaint Ordered I Be Seen by A nurse, Ms. Jacobs, who Reviewed My injury's and Requested I Be sent To an outside Hospital. (ECMC) Eric County Medical Center This incident is on "video" also see Affidavits

### III. Injuries:

If You Sustained injuries related to the events alleged above, describe them and state what Medical treatment, If Any, You Required And Received:

The Plaintiff Suffered A Swollen Hand, Gashes And Bipped Skin on His Right Pinky, wedding and index fingers, which will Be Perminet Scars. Sharp Pain in His Neck and lower Back. He was Emergency transferred To (ECMC) Hospital where He Received X-Ray's To His Hand, Stutures for The Open Wounds along with Pain Medication And follow-up Treatment for Neck And Back Pain which May require Surgery in the future. Plaintiff was Seen by Collins Dr. Jin, on 5/26/21 for Back Pain.

#### IV. Exhaustion of Administrative Remedies:

A. Did Your claim(s) arise while You were Confined in A Jail, Prison, or other Correctional facility?

Yes ☒ No ☐

If Yes, Name the Jail, Prison, or other Correctional facility where You were Confined at the time of the event(s) Giving rise to Your claim(s)  
Collins Correctional Facility - SHU 200

B. Does the Jail, Prison or Correctional facility where Your claim(s) arose Have A Grievance Procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the Grievance Procedure at the Jail, Prison or other Correctional facility where Your claim(s) arose Cover Some or all of Your claim(s)?

Yes ☒ No ☐ Do Not Know ☐



D. Did You file A Grievance in the Jail, Prison or other Correctional facility where your claim(s) arose? Yes ☒ No ☐

E. If You did file A Grievance about the events described in this Complaint, where did you file The Grievance? Collins Corr. Fac. OS-A1-1 cell  
in which it was not respond to due to staff  
throwing it out. Plaintiff then contacted (OSZ) office of  
Special Investigation through His Sister Ms. S. Brooks, He  
also wrote A Complaint To Collins, Dep of Security Mr Poff  
and Another Grievance forwarded To C.O.R.C. on 5/19/21.

1. Which claim(s) in this Complaint did you Grieve? Staff on inmate Assault, Religion violation

2. what was the Results. If Any? On 5/17/21  
DSS Poff Received The Plaintiff Complaint  
The Plaintiff was interviewed on 5-20-21  
by Lt. Pyane, (OSZ) Attempted to interview  
Plaintiff on or Around 5/11-13<sup>th</sup>/21. Due To  
Plaintiff outside Hosp. Trip He was Placed  
On quarantine. (OSZ) Recorded A Statement on  
5/27/21. Internal Affairs.



3. What Steps, if Any, did You take to appeal that decision? Describe all efforts to appeal to the Highest level of the Grievance Process. I wrote Collins Deputy of Security about the Complaint of Mishandling of Mail, C.O.R.C. who never responded. I Attached the Second Grievance and Contact (OSZ) who Recorded My Complaint for investigation

V. Relief:

State what You want The Court to do for You (Including the amount of Monetary Compensation, If Any, that You Are Seeking And the basis for Such amount(s).)

The Plaintiff Requesting This Court Grant Judgement In His Favor and damages in His favor against All defendants in an amount Sufficient To Compensate Him for the Pain and Mental Anguish He's Suffered at The Hands of the defendants. The Defendants violating His First Amendment Rights and The Religious Land Use and Institutionalize Person Act (RLUIPA) depriving the Plaintiff to freely Exercise and Practice His religion. The Sgt. D. Hessel, Knowledge and Awareness of The Plaintiff Being A (5) year Muslim who's registered in (DOCS) Computer, Practicing and Having religious Material in which He destroyed And

Threw away as Trash, being The Plaintiff Ramadan Meal and Kufi. The violation of His Eighth Amendment Rights, To Be free from cruel and unusual Punishment and or Excessive Force. The Defendants acting under color, All knowingly And intentionally used Excessive force outside of (DOCCS) Training Academy. The Punching, Kicking, The deadly Placement of A deadly choke-hold and use of A "Walkie-Talkie" which in this matter is considered A deadly weapon That Caused Serious injury/Bodily Harm To The Plaintiff, for outside Medical Treatment. Due To the deliberate indifference and intentional Misconduct of The Defendants. But in no event less Than \$50,000 from Sgt. D. Hessel, for His role described within The Complaint. The Plaintiff is also Requesting for injunctive Relief, Asking This Court To demand Through the defendants Attorney, Sgt. D. Hessel (DOCCS report folder) which will show A lengthy History of Assaults and or other on inmates. To demote or fire This Sgt. \$50,000 from C.O. Bortel, for His Role described within The Complaint. Both in their Individual and official Capacity. \$300,000. Together for all Remaining Defendants and Such additional relief as This Court May deem just and Proper. He, Believe He should Be Awarded A Total in \$400,000 in Compensatory damages on the 8<sup>th</sup> And 1<sup>st</sup> Amendment Violations Court, and in A total of \$400,000 in Punitive Damages. The Plaintiff Request the video footage on OS-A2 Gallery. The day of This incident 5/6/21, Be Preserved Pending Review or Trial.

## VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? Yes — No ☒

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment? Yes ☒ No —

D. If your answer to C is yes, describe each lawsuit by answering Question 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuit on another piece of paper using the same format.)

1. Parties to the previous lawsuit:

Plaintiff: DeSean Hill #14A0857

Defendants: (Asso. Comm.) McGrath, OMT Ms Grey, et.al.

2. Court (If federal court, name the district; If state court, name the county) United States District Court, Northern District of New York



3. Docket or Index Number 9:18-cv-1203
4. Name of Judge assigned to your Case DNH/TWD
5. Approximate date of filing lawsuit 10/09/2018
6. Is the Case still Pending? Yes
7. What was the results of the Case? Pending

I declare under Penalty of perjury that The foregoing is True and Correct. Signed this 19<sup>th</sup> day of July, 2021.

Signature of Plaintiff: Bill Des  
Inmate Number: 14A0857  
Institutional Address: Collins Corr-fac.  
P.O. Box 340, Collins, N.Y. 14034

I declare under Penalty of Perjury that on this 19<sup>th</sup> day of July, 2021, I am delivering this Complaint to Prison Authorities to be Mailed to the Pro Se office of the United States District Court for the Western District of New York.

x Bill Des  
Pro Se

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## **I. (a) PLAINTIFFS**

DeSean Hill # 14-A-0857

**(b) County of Residence of First Listed Plaintiff** \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**

## Pro Se

## DEFENDANTS

Sgt. Hessel, et al

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

- |   | PTF                        | DEF                        |  | PTF                        | DEF                        |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

[Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine			<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act				<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument				<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment				<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act				<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)				<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits				<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits				<b>LABOR</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)	
<input type="checkbox"/> 190 Other Contract				<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 485 Telephone Consumer Protection Act	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Management Relations	<b>SOCIAL SECURITY</b>			
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV		
		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/Exchange		
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions		
		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts		
			<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters		
				<input type="checkbox"/> 895 Freedom of Information Act		
				<input type="checkbox"/> 896 Arbitration		
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision		
				<input type="checkbox"/> 950 Constitutionality of State Statutes		

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):

## VI. CAUSE OF ACTION

## 42 USC 1983 Prisoner Civil Rights

**Brief description of cause:**

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A **CLASS ACTION** **DEMAND STATEMENT**  
UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S)  
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE \_\_\_\_\_

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
			525	

DESEAN HILL #1440857  
Collins Corr Fac  
P.O. Box 340  
Collins, N.Y. 14034

July 19<sup>th</sup>, 2021

Dear, Clerk of the Court

Please Be Advise, Enclose Are  
Two Copies of The Complaint ~~w/ Exhibits~~  
~~Attached~~ Filed out best To my Knowledge

Please Be Advise, Due To insufficient  
funds in my Account, I Have To Wait to  
Attach Any and All Exhibits To The Complaints.  
This Should Be So, upon Admending The Complaint  
To Name John Doe Defendant(s)

Thank You

Respectfully  
De Hill

Cc:file



DESERAN Hill #14A0857  
Collins Correctional Facility  
P.O. Box 340  
Collins, ~~Niagara~~ ~~New York~~ 14034-0340



No Funds  
used

Enclosed To: Mary C. Loewenguth  
Robert H. Jackson U.S. Courthouse  
& Niagara Square  
Buffalo, New York 14202

